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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,367	12/21/2001	Koh Tajima	P 284159	6514
23400	7590	03/26/2004	USP01B14/00P0036	
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			EXAMINER TO, TOAN C	
			ART UNIT 3616	PAPER NUMBER

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,367

Applicant(s)

TAJIMA ET AL.

Examiner

Toan C To

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Okada et al. (USPN 6,439,606).

Okada et al. disclose a passenger's seat airbag device comprising an airbag folded and housed in a case for being inflated and protruded backward of a vehicle while pushing and opening a door arranged in an instrument panel, by introducing an inflating gas thereinto from a gas inlet port. The airbag, when completely extended/inflated, comprises a passenger's side wall portion (38) arranged on the passenger's side and generally in a vertical direction, a peripheral wall portion converging generally into a "conical" shape from the outer peripheral edge of the passenger's side wall portion forward of the vehicle.

Since the figures show crease lines in the peripheral wall portion, the term "conical" in the specification is a loose description. The conical airbag of applicant's invention is interpreted to have sides that make up the peripheral wall as Okada et al.

The gas inlet port (15) is arranged as an open face on the front wide of the lower side of the peripheral wall portion when the airbag is completely extended/inflated. The gas inlet port is mounted at its peripheral edge on the case (see Fig. 7) and the airbag "is so shape when preliminarily folded" that a portion "near the upper edge" of the passenger's side wall portion is arranged at a position to confront the gas inlet port to lay the passenger's side wall portion flatly on the lower side of the peripheral wall portion.

With respect to the last paragraph in Claim 1 and in claim 2, "when preliminarily folded" does not serve to distinguish, as the folded airbag is not positively recited. Okada et al in at least Figs. 2, 3, 5 and 6 shows the airbag folded as in the present invention. Proper wording would be as claimed in subsequent claims which is "the preliminarily folded shape" and not including "when".

When the airbag is preliminarily folded, the peripheral wall portion is folded up to extend substantially all the area of the passenger's side wall portion flatly.

In the preliminarily folded shape of the airbag, the portion of the peripheral wall portion on the upper side of the gas inlet port is folded up within the range on the front side from the vicinity of the rear edge of the gas inlet port.

In the preliminarily folded shape of the airbag, the vicinity of the substantially intermediate portion of the lower side of the peripheral wall portion between the gas inlet port and the passenger's side wall portion lower edge is so folded in that "it" is arranged close to the lower edge of the passenger's side wall portion and near the rear end of the peripheral wall portion of the side of the passenger's side wall portion.

Further, Okada et al further discloses that the airbag is house in the case (M) after first being preliminarily folded (see column 5, lines 41-45), then vertically and horizontally folded (see folded airbag in figure 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (USPN 6,439,606) in view of JP5-305851.

Okada et al. has been discussed in the previous rejection.

Okada et al. show an airbag is folded near the joint of the upper edge of the passenger's side wall portion to form valley creases in the transverse direction (see Fig. 2B). However, Okada et al. does not show peripheral wall portions being folded in on the left and right side of the gas inlet port to form valley creases in the longitudinal direction.

The airbag of Okada et al discloses to have the same shape as Applicant's invention and therefore could be folded as Applicant's is claiming.

JP'851 shows a passenger airbag with the sides of the airbag being folded inwardly to create valley creases in the longitudinal direction.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to fold the airbag of Okada et al the manner as taught by JP'851 in order to provide a compact passenger airbag that inflates efficiently. This way of folding would establish relationships between the various structures of Okada et al is claimed in 4-6 and 8.

Response to Arguments

5. Applicant's arguments filed January 9, 2004 have been fully considered but they are not persuasive. The claims still read on the prior art references.

In response to applicant's arguments that Okada et al fails to disclose "an airbag housed in a case after first being preliminarily folded, then vertically and horizontally folded", the examiner respectfully disagrees with the following reasons: (1) Okada clearly describes that "prior to deployment, the airbag is folded for use in a top-mount type airbag device M", in other words, the airbag is folded prior to mounting of the airbag to the device M (see column 5, line 41-45), further, figures 5 and 6 of Okada et al show that the airbag is folded vertically and horizontally folded to form a "folded airbag" which is further housed in the case as shown in figure 4. (2) The claimed subject matter as mentioned above is considered as a process of making an airbag device, and MPEP 2113 states that

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process."

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For this reason alone, the claimed subject matters as argued by applicant is considered unpatentable over Okada et al.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTo
March 20, 2004

 3/22/04
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600